

**Senate Bill 1362 (Poochigian) Chapter 1085**  
***Disabled Veterans' Exemption***  
***Low Income Threshold***  
***Exemption Amount Simplification – Disability Type***  
***Late Filings***  
***Generally***  
***Delayed Disability Rating***  
***Portability***

*Tax levy, effective September 30, 2000. Amends and repeals Section 205.5 of, adds Sections 276.1, 276.2, and 276.3 to, and repeals and adds Section 276 of, the Revenue and Taxation Code.*

**This bill, with respect to the disabled veterans' exemption:**

- **raises the income threshold and provides for automatic annual increases for the low income exemption, (§205.5)**
- **deletes the multiple levels of exemption for disability type, (§205.5)**
- **permits partial retroactive exemptions for any eligible person who did not file a claim, (§276)**
- **permits full retroactive exemptions for veterans awaiting a disability rating, (§276.1) and**
- **immediately terminates and transfers the exemption from one home to another. (§276.2, §276.3)**

*Sponsor: Senator Charles Poochigian*

**Low Income Threshold**  
**Exemption Amounts Simplification - Disability Type**  
*Revenue and Taxation Code Section 205.5*

**This bill deletes the current income threshold reference to Section 20585, which provides limits of either \$24,000 or \$34,000, and instead provide an income limit of \$40,000. The income limits would be annually increased, beginning in 2002, by an inflation factor, as measured by the California Consumer Price Index for all items.**

*Law Prior To Amendment:*

The disabled veterans' exemption applies to the home of a qualified veteran or their surviving unmarried spouse. Depending on the nature of the disability and also the veteran's income, the law provides for an exemption in the amount of \$40,000, \$60,000, \$100,000, or \$150,000 of the full cash value of the property, as noted in the table below. In practice, the disabled veterans' exemption is generally granted in either \$100,000 or \$150,000 amounts. This is because, although the law specifies a different exemption amount for veterans who are blind or who have lost the use of

two or more limbs, the Veterans' Administration classifies these injuries as total disability, qualifying the veteran for the higher exemption amount.

Exemption amounts are higher for claimants who have a household income below the amounts specified in Revenue and Taxation Code Section 20585, which sets forth the maximum income levels for eligibility in the Senior Citizens and Disabled Citizens Property Tax Postponement program administered by the State Controller's Office. For persons who have qualified for the program in 1983, Section 20585 sets an income limit of \$34,000; for persons who became qualified after 1983 the income limit is reduced to \$24,000.

Previously the law established, until January 1, 2001 the following exemption amounts:

<b>Disability Type</b>	<b>Basic Exemption</b>	<b>Low Income Exemption (\$24,000 or \$34,000)</b>
<ul style="list-style-type: none"> <li>• Blind<sup>1</sup></li> <li>• Lost Two or More Limbs</li> </ul>	\$40,000	\$60,000
<ul style="list-style-type: none"> <li>• Totally Disabled</li> <li>• Active Duty Death</li> </ul>	\$100,000	\$150,000

Beginning January 1, 2001, the exemption amount for virtually all persons who are receiving the exemption will be reduced to \$40,000, or to \$60,000 for persons with household incomes below either \$24,000 or \$34,000, as specified.

<b>Disability Type</b>	<b>Basic Exemption</b>	<b>Low Income Exemption 24,000 or \$34,000)</b>
<ul style="list-style-type: none"> <li>• Blind</li> <li>• Lost Two or More Limbs</li> <li>• Totally Disabled</li> <li>• Active Duty Death</li> </ul>	\$40,000	\$60,000

<sup>1</sup> In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the \$100,000 basic exemption or the \$150,000 low income exemption.

Under the new law the exemption amounts and income threshold will be:

Disability Type	Basic Exemption	Low Income Exemption (\$40,000 + CPI)
<ul style="list-style-type: none"> <li>• Blind</li> <li>• Lost Two or More Limbs</li> <li>• Totally Disabled</li> <li>• Active Duty Death</li> </ul>	\$40,000*	\$60,000*

(\*This bill is double joined to SB 2195 (Soto), which permanently extended the current exemption amounts of \$100,000 and \$150,000.)

*In General:*

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness or 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table above, the amount of the exemption depends upon 1) type of injury and 2) household income.

*Comments:*

1. **Purpose.** To increase the income threshold for the higher exemption amount provided to low income persons qualifying for the disabled veterans' exemption.
2. **Key Amendments.** The April 25 amendments, in effect, delete from SB 1362 amendments to Section 205.5 which would have made permanent the current property tax exemption amounts scheduled to sunset on January 1, 2001 and instead double joins this bill to SB 2195 (Soto), which makes identical provisions with respect to making the exemption amounts permanent. (See SB 2195 analysis for detail on this provision.)
3. **The income threshold has not changed for over 16 years.** The income threshold for the low-income exemption is keyed to the threshold set for eligibility in

Property Tax Postponement Program. This income threshold has not changed since 1983.

4. **This bill provides for annual automatic increases in the income threshold level.** This bill increases the income threshold to \$40,000 for the year 2001. For the 2002 calendar year and each year thereafter the income threshold for the prior year would be adjusted by an inflation factor that is the percentage change from October of the prior fiscal year to October of the current fiscal year, in the California Consumer Price Index for all items as determined by the California Department of Industrial Relations. This is the same measurement period that is used for purposes of factoring base year values for purposes of Proposition 13 under Section 51 of the Revenue and Taxation Code, except that the actual percentage change would be used (there is a 2% cap on the inflation factor for base year values).
5. **Disability Types.** In practice, virtually all claimants qualify for the basic exemption level of \$100,000 or the low-income exemption level of \$150,000. The \$40,000 and \$60,000 levels are obsolete. Eliminating the varying amounts of the exemption for disability type conforms the statute to existing practice with the added benefit of streamlining this section of law and protecting disabled veterans who could unknowingly claim the lower exemption amount.
6. **Definition of Blindness.** According to the California Department of Veterans' Administration, the definition of "blind" in existing law is outdated. The March 15 amendment reflects the current definition used by the Veterans' Administration. However, this provision was amended out by AB 2562.

### **Late Filings**

*Revenue and Taxation Code Section 276, 276.1*

**This bill 1) revises and recast the partial exemption provisions for late filings for all claimants and 2) creates a separate statute for the specific case involving a disability rating issued by the federal government with a retroactive effective date.**

### **Late Filings – Generally**

This bill repeals the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim after the final filing date for a 100% exemption, which is February 15. In effect, the new provisions permit a partial exemption, at 85%, to be granted for prior tax years, subject to the limitations on refunds, on property for which the exemption would have been available but for the taxpayer's failure to file a claim. Additionally, for a claim filed between February 16 and December 10, it increases the amount of the partial exemption from 80% to 90%. The following table summarizes the late filing provisions under the new law.

<b>Exemption</b>	<b>Amount of Exemption</b>	<b>Filing Reqs.</b>	<b>Claim Filed By 2/15</b>	<b>Claim Filed Between 2/16 and 12/10</b>	<b>Claim Filed After 12/10</b>	<b>Refund Prior Tax Years</b>
Basic Exemption	\$100,000	One Time Only	\$1,000	\$900 (1000 x 90%)	\$850 (1,000 x 85%) for current tax year	Yes, refund up to four prior tax years @ \$850 per year
Low Income Exemption	\$150,000	Annual Refiling	\$1,500	\$1,350 (1,500 x 90%)	\$1,275 (1,500 x 85%) for current tax year	Yes, refund up to four prior tax years @ \$1,275 per year.

### **Late Filings - Delayed Disability Ratings**

This bill permits the full amount of the disabled veterans' exemption (rather than a partial exemption as provided above) to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA). The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.

<b>Exemption</b>	<b>Amount of Exemption</b>	<b>Filing Reqs.</b>	<b>Claim Filed By 2/15</b>	<b>Claim Filed Between 2/16 and 12/10</b>	<b>Claim Filed After 12/10</b>	<b>Refund Prior Tax Years</b>
Basic Exemption	\$100,000	One Time Only	\$1,000	\$1,000	\$1,000	Yes, refund up to four prior tax years @ \$1,000 per year
Low Income Exemption	\$150,000	Annual Refiling	\$1,500	\$1,500	\$1,500	Yes, refund up to four prior tax years @ \$1,500 per year.

*Law Prior To Amendment:*

The disabled veterans' exemption is generally available in two amounts<sup>2</sup>:

- \$100,000 for qualified persons, hereafter referred to as the “basic exemption” which is provided on a one time filing basis, and
- \$150,000 for qualified persons with low incomes, as specified, hereafter referred to as the “low income exemption” which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For annual re-filings of the \$150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of \$100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption under previous law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	\$100,000	One Time Only	\$1,000	\$800 (1000 x 80%)	\$0 for <u>current</u> tax year	No
Low Income Exemption	\$150,000	Annual Refiling	\$1,500	\$1,200 (1,500 x 80%)	\$0 for <u>current</u> tax year	No

<sup>2</sup> In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the “totally disabled” classification. To simplify this discussion, the remainder of the analysis will refer to either the \$100,000 basic exemption or the \$150,000 low income exemption.

*In General:*

The following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

<b>Summary of Late Filing Provisions For Various Exemptions</b>					
<b>Exemption</b>	<b>Amount of Exemption</b>	<b>Filing</b>	<b>Due Date</b>	<b>Late Filing</b>	<b>Retroactive for Prior Tax Years</b>
Basic Disabled Veterans'	\$100,000	One Time	2/15	80%, if by 12/10	No
Low Income Disabled Veterans'	\$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	\$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	\$4,000	Annual	2/15	80%, if by 12/10	No
Welfare Church Cemetery Exhibition Veterans' Organizations Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%, sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%, if filed on or before January 1 of the next calendar year.*  85%, if filed after January 1 of the next calendar year.*  *But not more than \$250 is to be charged for those years that taxes can be canceled or refunded.	Yes  If taxes were <u>paid</u> ; <u>four</u> years of refunds.  If taxes were <u>not paid</u> ; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

*Comments:*

1. **Purpose.** To permit retroactive exemptions for prior tax years, which is prohibited under existing law.
2. **Key Amendments.** The April 6 amendments reflect language suggested to the author by the Board to 1) change the treatment of claims filed *on* December 10, 2) modify language intended to alert taxpayers that refunds for prior years taxes would be subject to the statute of limitations on refunds and thus a refund may not be issued for every tax year the claimant may have otherwise been qualified, and 3) delete provisions relating to granting the exemption less \$250, a concept taken from the late filing provisions for other exemptions found in Section 270, which does not translate well because those exemptions generally exempt the entire property (regardless of value) whereas the disabled veterans' exemption is for a set amount.

3. **Under current law, the disabled veterans' exemption can not be granted for any year unless a claim is filed on or before December 10 of that tax year.** The exemption is available on a prospective basis once a claim is filed. This bill effectively permits the disabled veterans' exemption to be retroactively granted, as specified, for prior tax years. If taxes on the property were paid prior to receiving the disability rating, the number of prior tax years for which the exemption could be granted retroactively would be generally limited to four. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. Thus, in practice, the exemption may not always be granted for every year the claimant may have been eligible. There is no statute of limitation placed on the cancellation of unpaid taxes otherwise permitted by law. Consequently, if taxes were not paid in prior years, there would be no limit to the number of years that may be canceled<sup>3</sup>.

#### **Late Filing - Generally**

1. **This provision conforms, in essence, the late filing provisions for the disabled veterans' exemption to those provided for various non-profit agencies and governmental properties.** These provisions are similar to the late filing provisions for the following exemptions: welfare, church, religious, public schools, colleges, community colleges, state colleges, state universities, free public libraries, exhibition, free museums, veterans' organizations, and cemeteries. (The current late-filing provisions for disabled veterans' exemptions are identical to those for the homeowners' exemption and the veterans' exemption.) The partial exemption amount would increase from 80% to 90% for claims filed after February 15 but on or before December 10 and refunds for prior years would be granted at 85% of the exemption amount.
2. **This measure provides relief to those persons who were eligible for the exemption, but were unaware of the program.** Some homeowners, particularly the unmarried surviving spouses of persons who died while on active duty, are unaware that they are eligible for this exemption. The spouses of persons who died in active duty were not eligible for the exemption until after a 1992 constitutional amendment (Proposition 160).

#### **Late Filing – Disability Ratings**

1. **In practice, it can take many years for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed their rating.** Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and they receive educational material on the benefits available to disabled veterans. For those aware of the exemption,

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<sup>3</sup> In practice, action would commence to sell tax-defaulted property after five years of non-payment.



but awaiting their disability rating, some counties have adopted an administrative practice where they accept the filing of a “protective claim” each year. This administrative practice allows the county to grant the exemption once the disability rating is received, since technically the claim for each tax year was filed “timely”. But this remedy is only helpful for those persons who previously have consulted with their local county assessor. Other counties may not accept or suggest “protective” claims.

2. **Other types of situations with “back dated” effective dates would fall under the general provisions for “late filing” in proposed Section 276.** For instance, it is possible that a surviving spouse of a person who dies of a disease incurred in active duty will receive a back dated effective date that the disease was “service connected.”
3. **As currently drafted, the filing provisions for back dated disability ratings may be overly restrictive.** For instance, in the worst case scenario, if a person receives their rating in the mail on December 31, they would have until the next day, January 1 (the lien date), to file a claim with the assessors office. To correct this, the following amendments are suggested:

276.1 (b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 ~~on or before the next following lien date.~~

4. **Related Legislation.** AB 2092 (Reyes) added Section 890.3 to the Military and Veterans Code, which with respect to property taxes, permits the disabled veterans' exemption to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA).

### **Portability**

*Revenue and Taxation Code Section 276.2, 276.3*

**This provision allows a disabled veteran to receive the full amount of the exemption in any year in which they move from one home to another.**

#### *Law Prior To Amendment:*

Under current law, if a disabled veteran changes their principal place of residence on or after the lien date (January 1), the exemption does not terminate on the first home for the ensuing fiscal year (July 1 – June 30). The exemption is not allowed on the new residence until a claim is filed on the new residence or before February 15 or within 30 days of notice of supplemental assessment for the new residence, whichever occurs first.

*In General:*

There are two alternatives by which a disabled veterans' exemption may be granted:

Alternative 1: The exemption is available to an eligible owner of a dwelling which is occupied as the owner's place of residence as of 12:01 a.m. January 1 each year. The full exemption is available if a claim is filed on or before February 15, or

Alternative 2: The exemption is available to an eligible owner of a dwelling subject to Supplemental Assessment(s) resulting from a change in ownership or new construction on or after January 1 provided,

- (a) The owner occupies or intends to occupy the property as his or her principal place of residence with 90 days after the change in ownership or completion of new construction and,
- (b) The property is not already receiving the disabled veterans' exemption or another property tax exemption of greater value. If the property received an exemption of a lesser value on the current roll (most often the case, the property is receiving a \$7,000 homeowners' exemption), the difference in the amount between the two exemptions shall be applied to the Supplemental Assessment.

The full exemption (up to the amount of the supplemental assessment)<sup>4</sup>, if any, is available if a claim is filed by the 30<sup>th</sup> day following the Notice of Supplemental Assessment issued as a result of a change in ownership or completed new construction. If a claim is filed after the 30<sup>th</sup> day following the Notice of Supplemental Assessment, but on or before the date which the first installment of the supplemental tax bill becomes delinquent, 80 percent of the available exemption may be allowed.

An exemption under Alternative 2 will apply to the Supplemental Assessment(s), if any, and the full exemption will be allowed for the following fiscal year(s).

*Comments:*

1. **Purpose.** To ensure that a person qualified for the disabled veterans' exemption can immediately receive the full amount of exemption on the new residence.
2. **This measure ensures that a person who qualifies for the disabled veterans' exemption may immediately transfer the exemption from one home to another.** Under current law, it is possible that a person who purchases a home previously owned by a person who was receiving the disabled veterans' exemption will enjoy the property tax exemption for the remainder of the tax year, whereas the disabled veteran is unable to obtain the full amount of the exemption on their

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<sup>4</sup> For example, although the person would be entitled to a \$100,000 exemption, the supplemental assessment may be for an amount less than \$100,000.

new residence the first year of its purchase. This measure corrects this possibility.

3. **This measure provides that in the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.** Thus the new owner will no longer benefit from the disabled veterans exemption.